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10/620,505	07/16/2003	Jack Cassidy	200311036-1	8478
22879 7590 02/03/2010 HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				
EXAMINER DICKERSON, CHAD S				
ART UNIT 2625		PAPER NUMBER		
NOTIFICATION DATE 02/03/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JACK CASSIDY and WILLIAM CASSIDY

Application No. 10/620,505
Technology Center 2600

Mailed: February 3, 2010

Before Quita S. Gould, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 15, 2010. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

STATUS OF AFTER FINAL AMENDMENTS

A review of the file finds an After Final Amendment was filed on January 2, 2008, and the record is unclear if the amendment after final has been approved for entry.

Clarification of the status of amendment filed subsequent to Final rejection is required.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed April 21, 2008, reveals that the claim in the Claims Appendix of the Appeal Brief are not consistent as amended in the last entered amendment filed on August 17, 2007. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. See also *Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

As an alternative to requiring correction by Appellant, after the Examiner has clarified the status of the amendment filed January 2, 2008, the Examiner may provide an Examiner's Listing of Claims on Appeal.

EXAMINER'S ANSWER

It is noted that a copy of the Examiner's Answer does not appear in the electronic Image File Wrapper (IFW), which is the official record of the application on appeal. However, the Patent Application Locating and

Monitoring (PALM) program indicates that an Examiner's Answer was mailed on April 15, 2008.

If an Examiner's Answer was in fact mailed to Appellant, the Examiner should ensure that the Answer appears in the IFW. If an Examiner's Answer has been drafted but has *not* been mailed to Appellant, then the Examiner should mail it. Alternatively, if the Examiner decides that one will not be mailed, then the Examiner should indicate so to clarify the record. Clarification is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) mail a communication (Advisory Action or other) in order to clarify the record as to the status of the amendment after final;
- 2) acquire a correct copy of the Claims Appendix of the Brief filed April 21, 2008;
- 3) address the status of an Examiner's Answer; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

QSG/saw

Application No. 10/620,505

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